

FORM 26. Docketing Statement

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

No. 2016-1498

DAREK J. KITLINSKI

v.

DEPARTMENT OF JUSTICE

DOCKETING STATEMENT

This Docketing Statement must be completed by all counsel and filed with the court within 14 days of the date of docketing. When the United States or its officer or agency is a party, this Docketing Statement must be completed by all counsel and filed with the court within 30 days of docketing. All questions must be answered or the statement will be rejected.

Name of the party you represent DAREK J. KITLINSKI

Party is (select one) ☒ Appellant/Petitioner ☐ Cross-Appellant
☐ Appellee/Respondent ☐ Intervenor

Tribunal appealed from and Case No. Merit Systems Protection Board SF-4324-15-088-I-1

Date of Judgment/Order November 16, 2015 Type of Case USERRA Discrimination Appeal

Relief sought on appeal
Reversal and Remand for Hearing on the Merits

Relief awarded below (if damages, specify) NONE

Briefly describe the judgment/order appealed from Denial of Jurisdiction over Appeal

FORM 26. Docketing Statement (continued)

Nature of judgment (select one)

☒ Final Judgment, 28 USC 1295☐ Rule 54(b)☐ Interlocutory Order (specify type) _____☐ Other (explain; *see* Fed. Cir. R. 28(a)(5)) _____Name and docket number of any related cases pending before this court plus the name of the writing judge if an opinion was issued NoneBrief statement of the issues to be raised on appeal Whether the MSPB erred in ruling thatpossible installation and use of tracking device during pendency of USERRA Appeal is not an act of discrimination, retaliation and reprisal

Have there been discussions with other parties relating to settlement of this case?

☐ Yes ☒ No

If "yes," when were the last such discussions?

☐ Before the case was filed below?☐ During the pendency of the case below?☐ Following the judgment/order appealed from?

If "yes," were the settlement discussions mediated?

☐ Yes ☐ No

If they were mediated, by whom? _____

FORM 26. Docketing Statement (continued)

Do you believe that this case may be amenable to mediation? ☒ Yes ☐ No

If you answered no, explain why not _____

Provide any other information relevant to the inclusion of this case in the court's mediation program. _____

I certify that I filed an original and one copy of this Docketing Statement with the Clerk of the United States Court of Appeals for the Federal Circuit and served a copy on counsel of record, this 25th day of April, 2016

by: Electronic mail
(manner of service)

Kevin Byrnes
Name of Counsel

/s/ Kevin E. Byrnes
Signature of Counsel

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